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FLOOR DEBATE

February 25, 2004 LB 279, 454

advanced. Now we will go back to LB 279. Mr. Clerk.

ASSISTANT CLERK: Mr. President, with respect to LB 279, Senator Chambers would move to return the bill for specific amendment. That amendment is FA1490. (Legislative Journal page 765.)

SENATOR CUDABACK: Senator Chambers, you're recognized to open on your motion to return LB 279 to Select File for specific amendment. Senator Chambers, to open.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, as I stated, I was looking over these bills last night and I came to some language in the existing law which is totally inaccurate, inappropriate, and it should be stricken. On page 13 is the following language as it exists in the statute: It shall be the duty of all law enforcement officers to arrest and prosecute all violators of certain provisions. Then it goes on to say, and see that they are properly prosecuted according to law. Members of the Legislature, prosecution is in the hands of the county attorney or the city attorney as the case may be. Law enforcement officers make arrests and that ends their involvement. They do not have the duty to prosecute. They have no duty to see that prosecution occurs. The decision as to whether or not to prosecute is strictly within the discretion of the prosecuting attorney. So this language never should have gotten into the law. Nonetheless, it is there. And I, in reading this bill, saw this inappropriate language. Then in line 16, we have the phrase "shall be deemed guilty of a Class V misdemeanor." There should not be the word "deemed" because the person is guilty of a misdemeanor if this particular type of violation occurs. Before relinquishing the floor, I may as well touch on a couple of other things since I have the time. Senator Combs has a bill lodged in the Judiciary Committee and I hope it stays there, dealing with fat lawsuits or some such thing as that. When we were dealing with a bill earlier on the agenda which dealt with requiring a lunch hour or a half hour for lunch during a shift, that bill provided that it will not affect those situations where there is a collective bargaining agreement or an agreement in writing between the employer and the employee, and this is the language I was going to add: or this would not apply to any